

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

DANIEL CLATE ACKER,

Petitioner,

VS.

DIRECTOR,

**Texas Department of Criminal
Justice, Correctional Institutions
Division,**

Respondent.



















No. 4:06-cv-00469

(Death Penalty Case)

ORDER

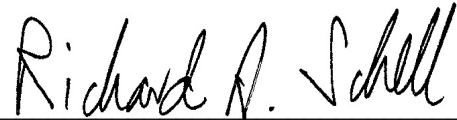
Pending before the Court is Petitioner Daniel Clate Acker's **Motion to Hold Proceedings in Abeyance to Allow Petitioner to Exhaust Claims in State Court.** For **GOOD CAUSE SHOWING**, Petitioner's motion is **GRANTED** and it is ordered that:

- 1) Acker's petition for a writ of habeas corpus is held **IN ABEYANCE** in order that he may exhaust state remedies with respect to all unexhausted claims in the present petition;
- 2) the one-year statute of limitations for seeking federal habeas corpus review under 28 U.S.C. §2244(d)(2) will be deemed **EQUITABLY TOLLED** during the time Acker is pursuing state remedies within the following timetable:
 - (A) within **30 DAYS** of the date of this Order, Petitioner's current federal habeas counsel must either move for appointment to represent Petitioner in state court proceedings or file his successive petition;
 - (B) whether undersigned counsel is appointed to represent petitioner in state court or not, Mr. Acker must file his successive petition no later than **60 DAYS** from the date of the filing of this Order;

(C) if the Texas Court of Criminal Appeals ultimately denies relief, Petitioner must return to federal court within **30 DAYS** of the date of that Order;

(D) if the above schedule is adhered to, Mr. Acker's petition for writ of habeas corpus filed by Petitioner in this Court will be deemed timely for the purposes of the statute of limitations of 28 U.S.C. §2244(d).

SIGNED this the 10th day of December, 2007.

A handwritten signature in cursive script, reading "Richard A. Schell". The signature is written in dark ink and is positioned above a horizontal line.

RICHARD A. SCHELL
UNITED STATES DISTRICT JUDGE